

ZULIMA V. FARBER
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07102
Attorney for the New Jersey Bureau of Securities

By: Samuel Scott Cornish
Deputy Attorney General
(973) 648-4802

RECEIPT	
DEPOSIT DATE	6/1/06
NUMBER	
AMOUNT	\$50,000.00
C.B.P.	ced. Rg. m +

Check #: 5515

IN THE MATTER OF:

GARY M. FUCHS, GMF
ENTERPRISES, INC., FNK CAPITAL
MANAGEMENT, INC., and FNK
CAPITAL PARTNERS LIMITED
PARTNERSHIP.

ADMINISTRATIVE CONSENT ORDER

Under N.J.A.C. 1:1-19.1, Franklin L. Widmann (the "Bureau Chief"), the Chief of the New Jersey Bureau of Securities (the "Bureau"), with the authority delegated to him under the Uniform Securities Law (1997) of New Jersey, N.J.S.A. 49:3-47 et seq. (the "Securities Law"), and Gary M. Fuchs, GMF Enterprises, Inc., FNK Capital Management, Inc., and FNK Capital Partners Limited Partnership ("Respondents") agree to resolve this matter under the terms of this Consent Order, which shall be a final decision under N.J.A.C. 1:1-19.1(d).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Bureau Chief makes the following findings of fact and conclusions of law:

1. On September 23, 2002, the Bureau Chief filed and served an Administrative Complaint against Gary M. Fuchs, GMF Enterprises, Inc., FNK Capital Management, Inc., and FNK Capital Partners Limited Partnership for violations of the Securities Law, including violations of N.J.S.A. 49:3-52(b), for the making of untrue statements of material fact in connection with the offer and sale of securities, and N.J.S.A. 49:3-54, for making an untrue statement in connection with the Bureau's investigation;

2. Respondents timely requested a hearing and filed an Answer denying and admitting certain allegations of the Administrative Complaint and asserting affirmative defenses;

3. The Bureau and Respondents (collectively, the "Parties") settled the Administrative Complaint through two Original Consent Orders (the "Original Consent Orders"), which were entered by the Bureau Chief as a final decision under N.J.A.C. 1:1-19.1(d) on August 16, 2004 and, among other things, imposed the following agreed-upon sanctions and penalties:

- a. Under N.J.S.A. 49:3-58(a), the Original Consent Orders revoked the registration of Fuchs with the Bureau as an agent and prohibited Respondents and

any "an officer, director, partner, trustee, beneficiary of such trust or person occupying a similar status or performing similar functions" of Respondents from applying with the Bureau for registration in any capacity until August 16, 2009 (the "Application-Prohibition Period");

b. Under N.J.S.A. 49:3-70.1, the Original Consent Orders imposed a civil monetary penalty of \$30,000.00, which Respondents were jointly and severally obligated to pay in four annual installments of \$7,500.00 commencing on October 1, 2004;

c. The Original Consent Orders provided that Respondents' failure to pay any installment of the \$30,000.00 civil monetary penalty:

i. automatically extended the Application-Prohibition Period from August 16, 2009 to August 16, 2019; and

ii. authorized the Bureau to either increase the civil monetary penalty from \$30,000.00 to \$60,000.00 plus interest accruing at a rate of 5% per year from the date of the first missed payment or to partially vacate the

Original Consent Orders solely to reassess the amount of the civil monetary penalty.

4. The Respondents did not admit or deny any of the findings of fact in the Original Consent Orders;

5. On October 1, 2004, Respondents violated the Original Consent Orders by failing to pay the initial installment of \$7,500.00 and, to date, have not paid any of the \$30,000.00 civil monetary penalty;

6. Under the Original Consent Orders, Respondents' failure to pay the initial payment of the \$30,000.00 civil monetary penalty automatically extended the Application-Prohibition Period from August 16, 2009 to August 16, 2019;

7. On December 21, 2005, in response to Respondents' failure to pay the initial payment of the \$30,000.00 civil monetary penalty, the Bureau Chief invoked his rights under the Original Consent Orders and the Securities Law by entering a Summary Order increasing the original \$30,000.00 civil monetary penalty by \$30,000.00, plus interest at a rate of 5% per year, resulting in an increased civil monetary penalty of \$63,000.00;

8. Respondents were served with the December 21, 2005 Summary Order on January 25, 2006, when Gary M. Fuchs signed a return receipt acknowledging service;

9. In a letter dated February 8, 2006 that was sent to Peter C. Harvey, Attorney General of New Jersey, Division of Law, 124 Halsey Street, P.O. Box 45029, Newark, New Jersey, Respondents requested a hearing in response to the December 21, 2005 Summary Order; and

10. The Parties have agreed to settle the December 21, 2005 Summary Order through this Consent Order, which includes all the sanctions and penalties imposed by the Bureau Chief and agreed to by Respondents for the conduct underlying the December 21, 2005 Summary Order.

SANCTIONS AND PENALTIES

IT IS ON THIS 2nd DAY OF June 2006 ORDERED AND AGREED that:

11. Under N.J.S.A. 49:3-70.1, Gary M. Fuchs, GMF Enterprises, Inc., FNK Capital Management, Inc., and FNK Capital Partners Limited Partnership are jointly and severally liable for a civil monetary penalty in the amount of \$50,000.00, which, within three business days of the entry of this Consent Order, shall be paid with a certified bank check or a check issued from the attorney trust account of Respondents' counsel payable to the "State of New Jersey, Bureau of Securities";

12. Under N.J.S.A. 49:3-58(a), the Application-Prohibition Period of Respondents and any "officer, director, partner, trustee, beneficiary of such trust or person occupying

a similar status or performing similar functions" of Respondents expires on August 16, 2014;

13. Respondents shall have defaulted under this Consent Order if the \$50,000.00 civil monetary penalty is not paid in accordance with paragraph eleven;

14. In the event of default, the Bureau may, under R. 4:70-1, R. 4:67-6, N.J.S.A. 2A:58-10 et seq., or any other relevant statute or rule, move or institute an action:

- a. to recover a civil monetary penalty of \$50,000.00 from Gary M. Fuchs, GMF Enterprises, Inc., FNK Capital Management, Inc., and FNK Capital Partners Limited Partnership;
- b. for an order directing the Clerk of the Superior Court of New Jersey to, under R. 4:47, enter a final judgment in the Civil Docket in the amount of \$50,000.00 against Gary M. Fuchs, GMF Enterprises, Inc., FNK Capital Management, Inc., and FNK Capital Partners Limited Partnership;
- c. to enforce this Consent Order; and/or
- d. for any costs and attorneys' fees of an application or action commenced under this paragraph, and any other permissible relief;

15. If the Bureau moves or institutes an action under paragraph fourteen, the sole issue of fact shall be whether

Respondents defaulted under this Consent Order, as defined in paragraph twelve; and

16. In the event Respondents' default, the time period that Respondents and any "officer, director, partner, trustee, beneficiary of such trust or person occupying a similar status or performing similar functions" of Respondents are prohibited, under N.J.S.A. 49:3-58(a), from applying with the Bureau for registration in any capacity shall be automatically extended from August 16, 2014 to August 16, 2019.

GENERAL PROVISIONS

17. Upon becoming a final decision under N.J.A.C. 1:1-19.1, this Consent Order resolves Respondents' contest of the December 21, 2005 Summary Order;

18. The Parties may enforce any and all terms of this Consent Order, including the Application-Prohibition Period and default provisions;

19. Respondents admit: the jurisdiction of the Bureau over this matter; that this Consent Order has the same effect as if entered after a full hearing held under N.J.S.A. 52:14B-1 et seq.; and to being served with the December 21, 2005 Summary Order and notice of respondents' rights;

20. Respondents waive their right to a hearing and right for judicial review of, to contest, or to challenge this Consent Order;

21. New Jersey law governs this Consent Order for purposes of interpretation and enforcement;

22. This Consent Order constitutes the entire agreement among the Parties with respect to its subject matter and any addition, deletion, or modification will have no affect unless it is in writing signed by all Parties and signed and entered by the Bureau Chief;

23. The signatories of this Consent Order represent that they have authority to bind their respective party;

24. With the aid of their counsel, the Parties have negotiated and carefully reviewed the terms of this Consent Order and any of the documents, pleadings, and orders referenced herein;

25. The Parties agree that any rules of construction or interpretation that construe ambiguities against the drafter are inapplicable to this Consent Order;

26. If any portion of this Consent Order is held invalid or unenforceable, the remaining terms and provisions shall remain in full force and effect;

27. This Consent Order is not binding on anyone or any entity that was not a party in this action or is not a party to this Consent Order; and

28. This Consent Order may be signed in counterparts, which shall each be deemed originals and together constitute the same Consent Order.

6/2/06 Franklin L. Widmann Acting Chief for
Chief, New Jersey Bureau of
Securities

CONSENT OF RESPONDENTS

I, individually and on behalf of GMF Enterprises, Inc., FNK Capital Management, Inc., and FNK Capital Partners Limited Partnership, do hereby certify, subject to penalties for false swearing and any other civil and criminal sanctions that may be imposed for making a willfully false statement in this consent, that: (1) I have read this Consent Order with the assistance of my counsel and understand and agree to its terms; and (2) I have the authority to and hereby voluntarily consent to the entry of this Consent Order, to which I and the entity Respondents are bound.

Gary M. Fuchs, GMF Enterprises,
Inc., FNK Capital Management,
Inc., and FNK Capital Partners
Limited Partnership

By: Gary M. Fuchs
Gary M. Fuchs

Date: May 31, 2006

Consenting to the Form
And Entry of this Order

Ferro Labella & Zucker LLC
27 Warren Street
Hackensack, New Jersey 07601
Attorneys for Respondents

By: Christopher L. Weiss, Esq.
Christopher L. Weiss, Esq.

Dated: JUNE 1, 2006